

**THE ACLU OF UTAH FOUNDATION, INC
PRESENTS**

LANGUAGE ACCESS IS VOTER ACCESS



All eligible voters have a right to full and equal voting access without barriers preventing them from engaging at any stage.

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Executive Summary

For elections to be free and fair in the United States, all eligible voters must have the ability to vote without barriers facing them at any stage of the voting process, from registering to vote to casting their ballot. Individuals who are Limited English Proficient (LEP) are among those who may face barriers preventing them from effectively participating in the electoral process. These barriers include difficulties in understanding elements of the registration process, information regarding how to cast their ballot, and information relating to their ballot or the ballot itself. All eligible voters have a right under the U.S. Constitution and the Voting Rights Act (VRA) to participate equally in the electoral process. The VRA provides numerous protections for LEP voters, including Sections 203 and 208.



Because Utah has a high population of LEP individuals, all jurisdictions should actively undertake meaningful efforts to ensure language access for voters. This report details what language assistance services are provided by certain counties in Utah and makes recommendations on how the state and individual counties can improve language access throughout the electoral process.

Specifically, we recommend:




- Identifying the prevalence of language needs in the jurisdiction through accurate demographic and language data.
- Providing language access during all steps of the electoral process.
- Accurately translating all written materials into languages commonly spoken within the jurisdiction other than English.
- Planning language services that will be made available to voters well in advance of the election.
- Conducting outreach efforts providing relevant information for the election and services in commonly spoken languages other than English.
- Hiring bilingual full-time staff, poll workers, and volunteers.
- Training poll workers and volunteers on compliance with Sections 203 and 208 of the Voting Rights Act and all language services available.
- Obtaining stakeholder input and feedback on language services provided.

INTRODUCTION




“If a voter does not fully understand the information presented in the ballot, the chances that the voter could spoil or make a mistake on the ballot are increased.”

To effectively and equally participate in our democracy, all eligible voters must be able to vote without barriers. Limited English Proficient (LEP) voters often face language barriers at all stages of the voting process, from registration to the ballot box, hindering their participation in the electoral process. No jurisdiction in Utah expressly prohibits LEP individuals from voting, which would be illegal. Yet registration materials, ballots, and other election-related information are often not available in LEP voters' primary languages. This lack of language access impedes the ability of LEP voters to meaningfully and fully engage with and understand the voting process, becoming the practical equivalent of a prohibition on voting.



For example, suppose a jurisdiction only conducts outreach in English before the election. In that case, LEP voters may be unaware of registration deadlines, candidate filing deadlines, election dates, and other crucial information they need to participate in the election. As another example, if a voter does not fully understand the information presented in the ballot, the chances that the voter could spoil or make a mistake on the ballot are increased. Instructions may be unclear and/or it may be difficult to determine for whom they are casting their vote. Eligible LEP voters may even refrain from voting because language assistance is not available to them, or if it is available to them, they may be unaware it exists.

INTRODUCTION



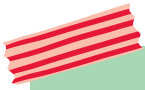
Actively ensuring there is effective language access at every stage of the voting process has many benefits:

1. Helping LEP voters become well informed about every step they need to take to vote and the contents of the ballot.
2. Allowing LEP voters to feel confident in their ability to participate fully in the voting process. LEP voters are also less likely to make mistakes on their ballot due to language barriers with effective assistance.
3. Increasing voter turnout, which is essential for a truly representative democracy.

When LEP voters have access to more information and face fewer barriers to voting, they will likely participate at higher rates. This increased participation will increase civic engagement, create more representation within government, and give LEP individuals in Utah a more effective voice in government.



INTRODUCTION



Although we do not have an exact count of the number of eligible voters who are LEP in Utah, we do know that there are over 140,000 LEP individuals in the state. While not every one of those individuals is necessarily eligible to vote, it is reasonable to believe that a substantial portion is. It is worth noting that the population of LEP voters is not solely made up of naturalized citizens, as Utah's Puerto Rican and Indigenous communities also have a significant number of LEP voters within them.

Although the number of LEP Puerto Ricans in Utah is unclear, there are over 11,000 Puerto Ricans in Utah, a portion of whom is likely LEP.¹ Utah is also home to over 41,000 Indigenous individuals, including those from federally recognized tribes like the Ute, Goshute, Paiute, Shoshone, and Navajo people.²ⁱⁱ Many other Indigenous people live in Utah who are not members of Indigenous tribes with a land base in Utah, as well as individuals who are members of tribes actively seeking federal and/or state recognition.

Over 2,000 LEP individuals in Utah speak Diné Bizaad (Navajo) and other Native languages of North America not specified in the U.S. Census.³ⁱⁱⁱ Given Utah's high population of LEP individuals, all jurisdictions must provide language assistance to LEP voters.

INTRODUCTION

<i>Languages</i>	<i>LEP Individuals⁴</i>
Spanish	104,106
Chinese	5,963
Vietnamese	4,409
Austronesian Languages	2,737
Portuguese	2,614
Korean	2,261
Diné Bizaad	1,897
Arabic	1,553
Tai-Kadai Languages	1,327
Tagalog	1,204



Top 10 Languages Spoken in Utah

THE VOTING RIGHTS ACT OF 1965

The Voting Rights Act (VRA) of 1965 mandates some efforts to provide certain forms of language access for voters. It was intended to outlaw racial discrimination in voting by prohibiting discriminatory voting practices that prevent racial minorities from registering to vote and casting their ballots.⁵

Thus, the original iteration of the VRA provided a provision protecting LEP U.S. citizens educated in the United States or its territories in a language other than English. This provision prohibited states from denying those LEP citizens the ability to register to vote or vote because of an inability to read, write, speak, and/or understand English.⁶

After the introduction of the VRA in 1965, Congress became increasingly aware of the discrimination faced by language-minority voters that prevented them from participating in the election process. In 1975, the VRA was amended to provide more protections for language-minority groups, such as outlawing English-only elections, prohibiting practices preventing members of language-minority groups from registering or voting, and adopting Section 203.⁷

SECTION 203 OF THE VOTING RIGHTS ACT



Under Section 203, a federal agency relies upon census data to designate specific jurisdictions as “Section 203 jurisdictions.” Section 203 jurisdictions meet particular criteria related to populations of minority groups who speak languages other than English. A jurisdiction is covered under Section 203 when the number of citizens of voting age in a single language group within the jurisdiction:

A jurisdiction is covered under Section 203 when the number of United States citizens of voting age in a single language group within the jurisdiction:

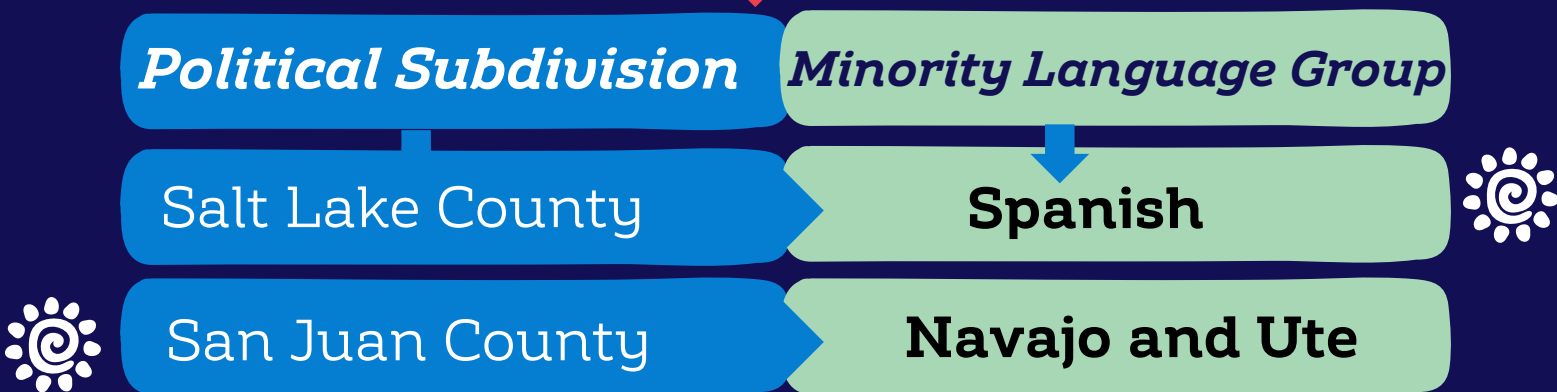
- Is more than **10,000**, or
- Is more than **5%** of all **voting-age citizens**, or
- On an Indian reservation, exceeds five percent of all **reservation residents**; and
- The illiteracy rate of the group is higher than the **national illiteracy rate**.

Section 203 jurisdictions are mandated to provide translated versions of instructions, assistance, materials, information, and other voting information available in English in the covered minority group’s language.⁸

DESIGNATED SECTION 203 JURISDICTIONS IN UTAH⁹



Based on 2021 U.S. Census Bureau data, Utah has two Section 203 jurisdictions- Salt Lake County and San Juan County. Salt Lake County has over 53,000 LEP Spanish speakers, making up 5% of the county's population of individuals over the age of 5.¹⁰ San Juan County has over 1,500 LEP Diné Bizaad and Ute speakers, making up 12% of the county's¹¹ population over the age of 5.



Consequently, the law requires Salt Lake County and San Juan County to provide the most robust language services in the state for their specified language minority groups during all elections. Regardless of Section 203 jurisdiction classification, all jurisdictions should provide robust language services so all LEP voters can effectively and equally participate in the electoral process.

SECTION 208 OF THE VOTING RIGHTS ACT



In 1982, Section 208 was added to the VRA, allowing voters experiencing blindness, disability, or the inability to read or write to receive assistance at the polls from nearly any individual of their choice.^{12iv}

All voters experiencing language barriers may obtain assistance through Section 208. People assisting are not required to be U.S. citizens, registered to vote, or of voting age.

The voter's chosen individual may assist the voter with the entirety of the voting process, including when the person voting is in the voting booth.

San Juan County Settlement Agreement



In 2014, San Juan County switched to a mail-only voting system, shutting down all in-person polling places and leaving Monticello, Utah as the only location where a voter could receive in-person assistance. As a result, in 2016, the Navajo Nation Human Rights Commission and seven members of the Navajo Nation filed a lawsuit against San Juan County alleging, among other things, violations of the VRA.¹³



The lawsuit alleged that the county's switch adversely affected Navajo voters for various reasons. Among other things, the plaintiffs contended that the mail system was unreliable for most Navajo voters and that the mail-only system did not adequately provide effective language assistance to LEP Navajo voters as required by Section 203.



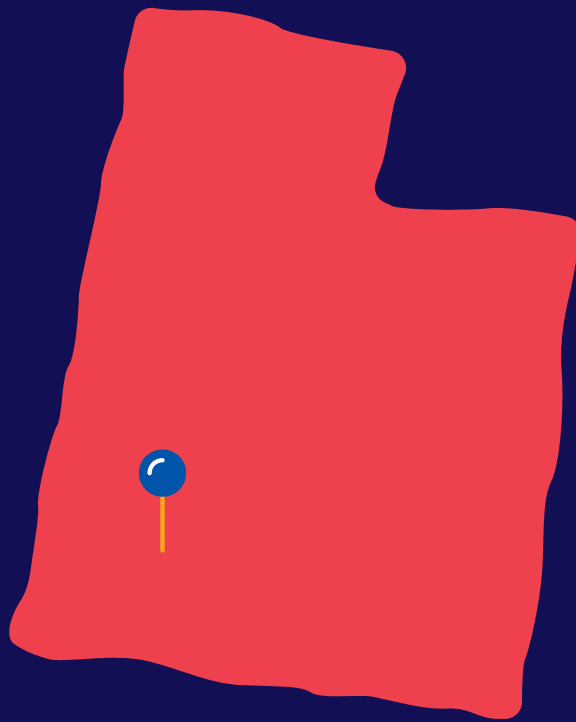
In 2018, the parties reached a settlement agreement. One key provision of that agreement is that the county will maintain various early and election-day voting locations on the Navajo Nation where LEP voters can receive assistance. The county also agreed to make significant efforts to provide election information in Diné Bizaad to LEP Navajo voters in various ways throughout the election cycle. This agreement is currently in effect until the conclusion of the 2024 election cycle.

LANGUAGE SERVICES PROVIDED BY UTAH COUNTIES

Although most jurisdictions in Utah do not hold Section 203 designations, all of them should provide language services to safeguard the rights of LEP voters. To better understand the efforts counties in Utah are making to provide language access, we sent emails to all 29 county clerks before and after the 2023 elections. In those communications, we sought to understand what language assistance services counties across the state would provide during the elections. The specific questions we asked were as follows:

1. What language assistance services, if any, did your office provide?
2. Were qualified bilingual poll workers or volunteers present?
3. How many people sought out language assistance services?
4. Were LEP voters allowed to receive assistance from someone of their choice as they filled out their ballot?
5. Are there any language assistance services that were missing and would have been beneficial?
6. Before the election, was outreach conducted in languages commonly spoken in the county other than English?

In the months following our inquiries, we sought to follow up with the counties that had not responded. Ultimately, we received information from 11 of the 29 counties in Utah. Information regarding their provision of language services, along with a count of LEP individuals in the county per the 2022 American Community Survey 5-Year Estimates¹⁴ from the U.S. Census, can be found below:



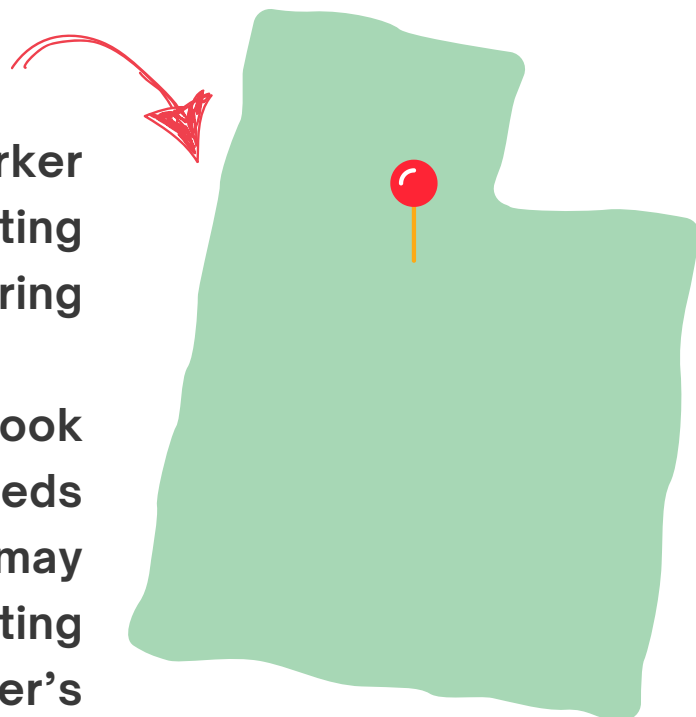
Beaver County: 359 LEP Individuals

- Instructions in English and Spanish are available in the poll booths.
- Employs an individual who can help with Spanish interpretation.
- Voters can receive assistance to fill out their ballot from someone of their choice.

Davis County: 8,789 LEP

Individuals

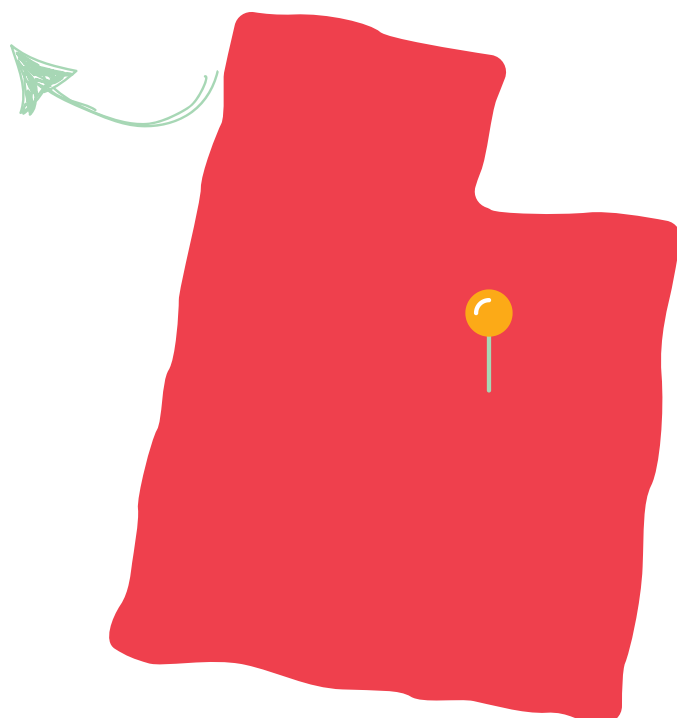
- A portion of their poll worker training focuses on assisting voters, including those requiring language assistance.
- The poll worker handbook mentions, “If a voter needs assistance, another individual may assist the voter. A person assisting a voter may not be the voter’s employer, an agent of the voter’s employer, an officer or agent of the voter’s union, or a candidate whose name appears on the ballot. A poll worker may assist. Assistants may not change voter’s choices in any way.”



Duchesne County: 423 LEP

Individuals

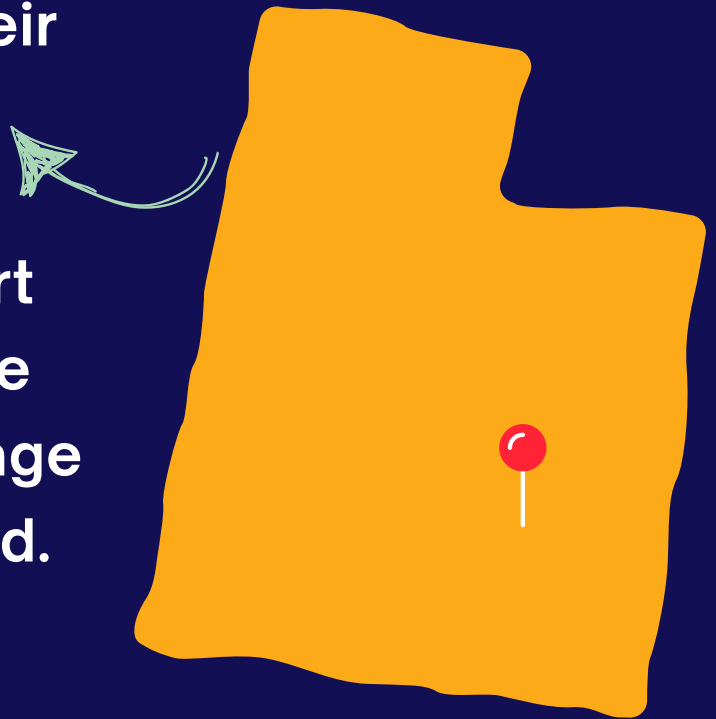
- Employs an individual who speaks Spanish.
- The county only conducted outreach in English – excluding other commonly spoken languages.



Emery County: 183 LEP

Individuals

- Voters can contact their office if they require additional assistance.
- Stated that every effort will be made to provide LEP voters with language assistance if requested.



Millard County: 493 LEP

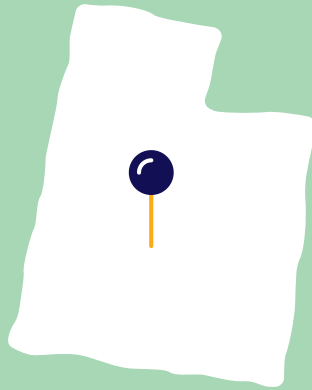
Individuals

- Printed posters about language services.
- Employs an election worker who speaks some Spanish and relies on a non-employee to translate anything.
- The county only conducted outreach in English – excluding other commonly spoken languages.



Salt Lake County: 77,533 LEP Individuals

- Voters may request a Spanish mail ballot. All ballot instructions and materials have been translated into Spanish as well.
- Every Vote Center has at least one poll worker who speaks Spanish and is ready to assist voters.
- Bilingual full-time staff are available in the office year-round.
- Every Vote Center has a federally required Voting Rights Poster in English and Spanish.
- Their poll worker training includes Sections 203 and 208 of the Voting Rights Act and information about their duties as poll workers.
- Audio ballots are available in Spanish at all polling locations.
- Voter registration forms are available in Spanish for those registering to vote by mail before the registration deadline.

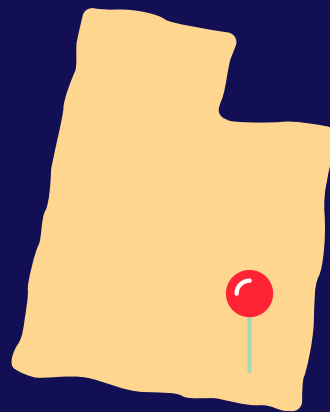


- They work with the Lt. Governor's office to ensure that the statewide voter information manual they create is translated into Spanish.
- At least one ATI (Audio Tactile Interface) and the audio ballot are available in Spanish.
- They have plastic signature tactile guides to help voters know where to sign their names.
- The number of individuals seeking out language services is not tracked. However, in the previous General Election, 372 Spanish mail ballots were mailed in their initial bulk mailings of ballots 21 days in advance of the election.
- Voters can receive assistance from someone they choose as mandated under Section 208.
- Outreach was conducted before the election by having bilingual staff provide interviews and information to Spanish-language media outlets. All of their voting and registration materials are available in Spanish.

San Juan County^v: 1,688 LEP

Individuals:

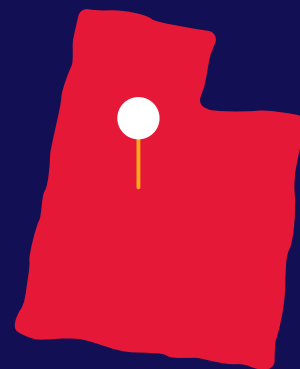
- Early voting with in-person Diné Bizaad interpreters at multiple locations on tribal lands was available.
- Diné Bizaad interpretation of early voting, location, and time information aired on the radio.
- Early voting, location, and time information were shared in local newspapers in English.
- Diné Bizaad translated documents, including handwritten notes and crossed-out sections, were shared on their website.
- Hired certified interpreters for Navajo and Ute languages.
- On the day of the elections, Diné Bizaad and Ute interpreters were at polling places on tribal lands.



Weber County: 25,465 LEP

Individuals

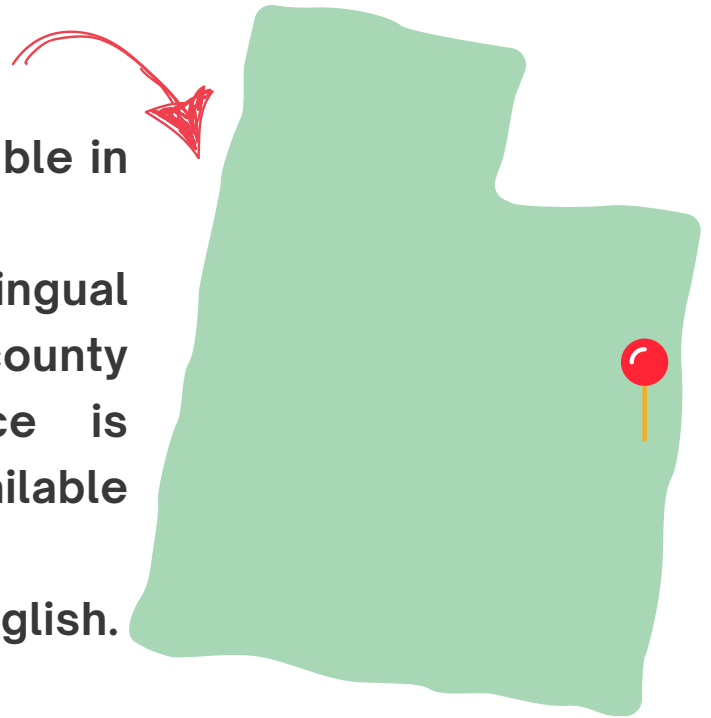
- Ballots are provided solely in English.
- Voter registration forms and voting rights posters are available in Spanish.
- Proficient Spanish-speaking poll workers are present.
- Materials are available to assist non-Spanish-speaking poll workers in providing information effectively.
- It is unclear how many people seek out language assistance services.
- Voters are allowed to receive assistance from someone they choose as mandated under Section 208.
- Conducted outreach in English – excluding other commonly spoken languages.



Uintah County: 608 LEP

Individuals

- A voting rights poster is available in both English and Spanish.
- They do not have qualified bilingual poll workers; however, a county employee in another office is proficient in Spanish and available to assist them.
- Only conducted outreach in English.



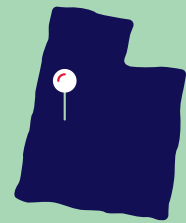
Utah County: 24,305 LEP

Individuals

- Spanish assistance services are available on Election Day through poll workers or the help desk set up to assist poll workers and voters.
- Voters are always allowed to choose who they want to assist them unless their chosen person is not allowed by state code.

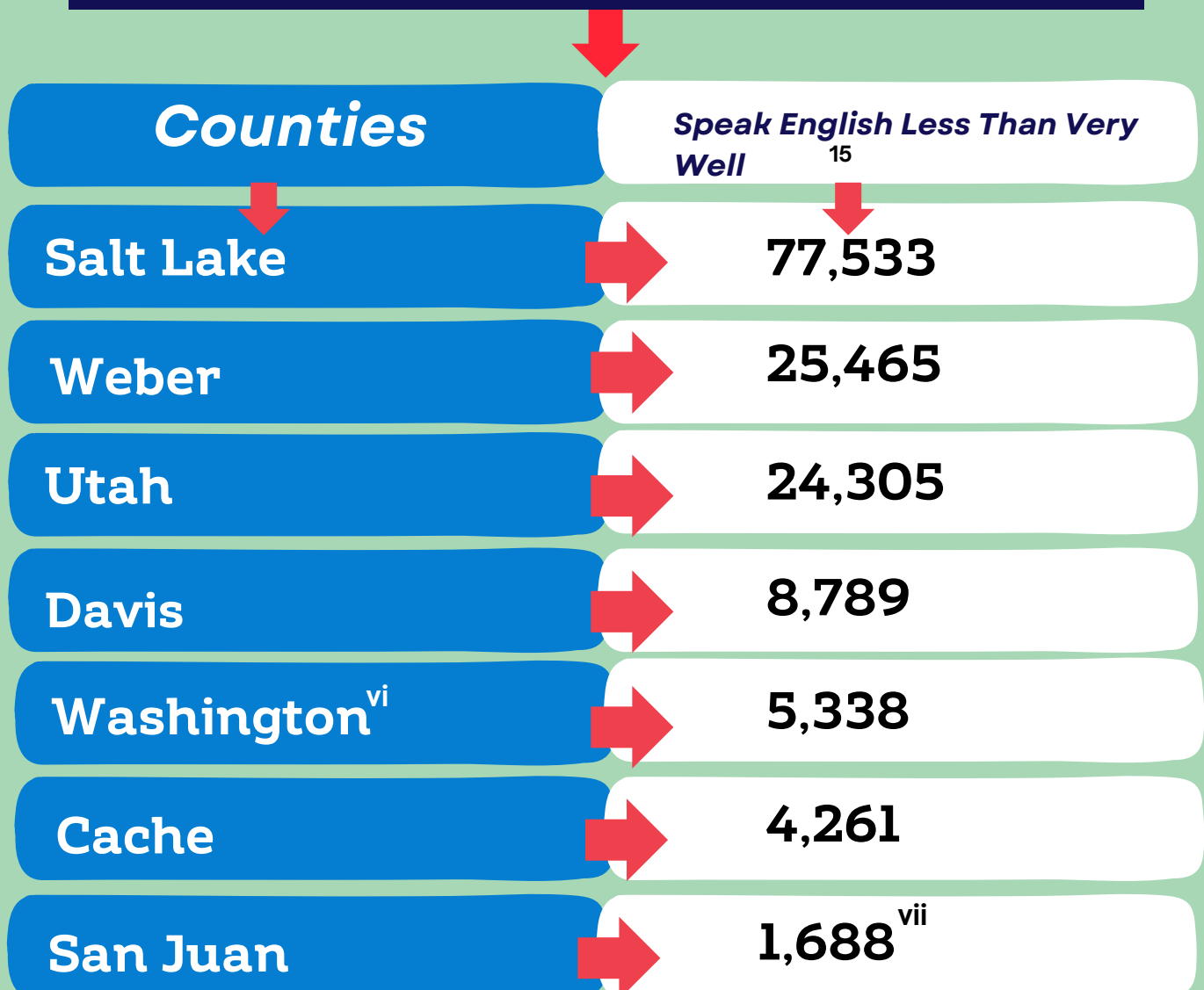


Tooele County: 1,595 LEP Individuals



- They hired a bilingual clerk in their office.
- No qualified bilingual poll workers were present at the vote center, but their in-office bilingual staff member would have been dispatched if services were needed.
- If individuals require assistance to fill out their ballot from someone of their choice, they will be accommodated.
- A Spanish voter registration form was offered.
- Only conducted outreach in English – excluding other commonly spoken languages.

Top 7 Counties with the Highest Rates of LEP Individuals in Utah



Recommendations

Many counties in Utah are trying to provide language assistance services during elections, which is essential in eliminating barriers for LEP voters. However, all counties in Utah should increase their efforts to provide language access during elections. LEP voters must be able to participate effectively in all aspects of the election process. We urge all counties in Utah to adopt robust language assistance services and to implement the following recommendations to the maximum extent possible:



Recommendation 1:

- Identify the prevalence of language needs in the jurisdiction through accurate demographic and language data.
 - The U.S. Census maintains some relevant datasets. It is essential to recognize, however, that the U.S. Census undercounts communities of color and rural communities, particularly Black, Indigenous, and Latinx communities.¹⁶
 - Census data should be supplemented and cross-referenced with information gathered by community-based organizations, school districts, the Office of Health Equity, and social services to account for overlooked communities.^{viii}
 - Poll workers should monitor the prevalence of requested language assistance in each polling location and identify the languages requested without recording the voter's identity.
 - Identify the top 5 commonly spoken languages in the jurisdiction other than English and provide translated materials in those languages at a minimum.
 - Jurisdictions and public officials must not take a lack of language assistance requests as an indication that there is no need for language access. A lack of language access in the electoral process may discourage eligible LEP voters from voting, leading to minimal language assistance requests.



RECOMMENDATION 2

- Provide language access during all steps of the election process.



- Election officials should hold registration events for Limited English Proficient individuals by partnering with local community-based organizations and religious institutions in each jurisdiction to increase voter turnout.



- Individuals registering to vote should be asked about their language preferences and, with their consent, be provided with information about language services and receive voting materials in their chosen language.



- All information related to election deadlines, candidate filing deadlines, voter registration, polling locations, operating hours, casting the ballot, and available language services should be provided in a voter's chosen language during each step of the election.

RECOMMENDATION 3:

- Accurately translate all written materials into languages commonly spoken within the jurisdiction other than English.
 - Translate all materials and communications provided in English at the ballot box and beforehand into languages commonly spoken within the jurisdiction. These materials and communications include:
 - Registration information and applications
 - Candidate filing deadlines and requirements
 - Information on county websites about voting
 - Poll worker recruitment materials
 - Voter's rights pamphlets
 - Sample ballots
 - Early and mail voting materials and instructions
 - Instructions for using voting machines
 - Signage at polling locations and drop boxes
 - Regular and provisional ballots and instructions
 - Election Day publicity
 - Poll worker badges
 - Election results
 - Refrain from using online translation websites such as Google Translate, as these are often inaccurate.
 - If possible, pay a fluent bilingual staff member to review the translation. When necessary, use a reputable translation service and/or certified interpreters.
 - Connect with community-based organizations to identify which translation services are best to use or provide them with monetary compensation to review the materials if they have the capacity.



RECOMMENDATION 4:

- Plan which language services will be available to voters well before the election.

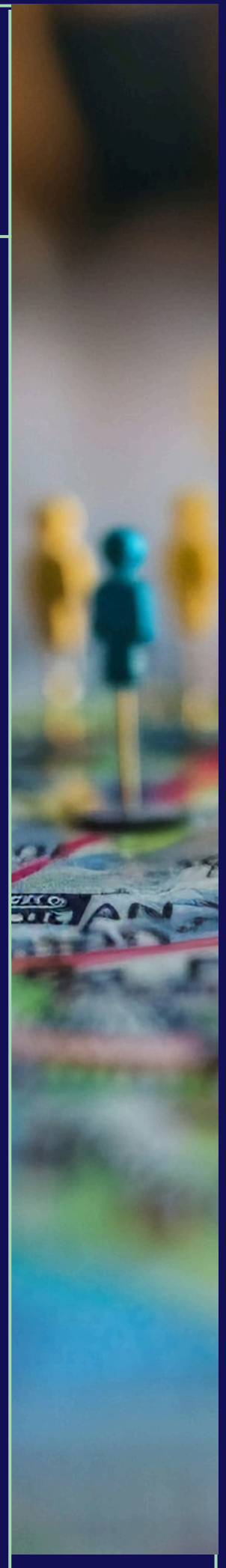
- Ideally, a general plan to provide language service should be in effect a year before any election. A general plan can be created for all elections and amended for specific elections.
- Full-time bilingual staff should assist with the creation and implementation of the plan.
- Planning language services will allow election staff to translate all necessary documents promptly, hire appropriate staff and poll workers, ensure that interpreters will be available, and inform LEP voters which language services will be available.
- Include information on the use of certified interpreters and translators in the plan.
- Ensure that all communities and their specific language needs are considered when planning which language services will be available.
- Research and identify services provided by community-based organizations, media outlets, religious institutions, and any other group involved in promoting voting for LEP individuals and see how you can work with them.
- Create a fallback plan in case language services and interpreters become unavailable during the election, such as maintaining a list of qualified interpreters who may be able to assist with short notice and creating a plan to utilize certified interpreters over the phone.
- Consider conducting town halls or creating an advisory committee to receive input and identify how best to serve LEP voters.



Recommendation 5:

- Conduct outreach efforts providing relevant information for the election and services in commonly spoken languages other than English.

- We recommend these efforts be conducted in the top 5 languages commonly spoken within the jurisdiction and should be conducted throughout the year.
- All information relevant to voter registration, election dates and deadlines, polling locations, drop boxes, and available language services should be provided during outreach.
- All outreach efforts and information on county websites and social media relevant to the election should be translated.
- Outreach efforts may include providing information or advertisements on radio shows geared towards language minority groups, creating informational videos in these languages, creating educational campaigns on social media, partnering with community-based organizations to provide this information, and creating signage to display in public spaces.



Recommendation 6:

- Hire bilingual full-time staff, poll workers, and volunteers.

- Bilingual full-time staff are helpful in assisting with planning, providing language services, and outreach and information dissemination throughout the year.
- After determining the top 5 most spoken languages in the jurisdiction, conduct outreach to these language minority groups for staff, poll worker, and volunteer positions.
- Partner with religious institutions and community-based organizations geared towards language minority groups to conduct outreach.
- Provide incentives for bilingual poll workers, such as higher pay for their language expertise.
- Bilingual poll workers and volunteers should receive special training on LEP individuals and resources. This training must ensure that these individuals fully understand all of the information in the voting materials and the language services provided.



RECOMMENDATION 7

- Train poll workers and volunteers on all language services provided and compliance with Section 208 and, where applicable, Section 203.



- All workers must be trained about Sections 203 and 208 of the VRA.



- Poll workers must abide by Section 208 and allow voters needing language assistance to receive assistance on their ballot from someone of their choice. This assistance must be permitted throughout the entire voting process, including inside the booth.

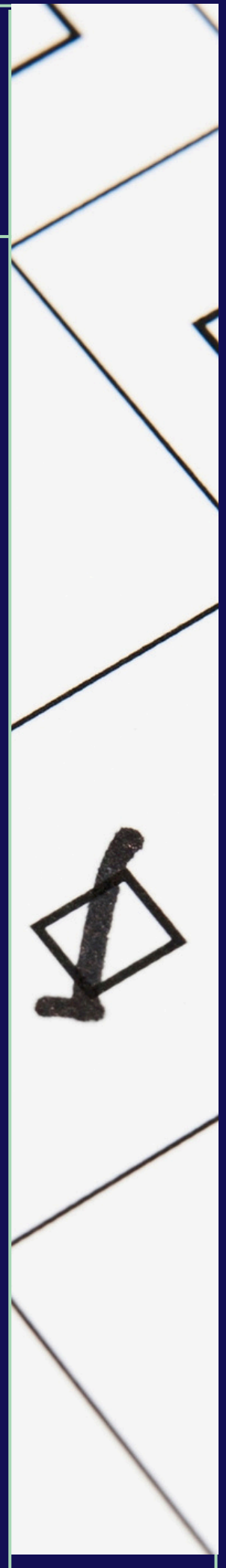


- All poll workers and volunteers must be trained on how LEP voters can request and access language assistance.

Recommendation 8:

- Obtain stakeholder input and feedback on language services that are provided.

- Obtain input from LEP voters at the polls and community-based organizations that work with LEP communities.
- Conduct surveys at the polls or through an online link geared toward LEP individuals who request language services and those who don't.
- Ensure that surveys are anonymous and confidential. Surveys must be anonymous and confidential. LEP voters should be informed that the surveys are anonymous and confidential.
- Ensure that all those seeking language assistance are informed by poll workers or via signage at the location that they can submit feedback in their primary language through email or an online form.



Conclusions

All eligible voters have a right to full and equal voting access without barriers preventing them from engaging at any stage. This right is guaranteed by the U.S. Constitution and given meaningful protection by the VRA. LEP individuals often experience language barriers preventing them from fully engaging with the electoral process. These language barriers can suppress voting participation by LEP individuals and may even lead to mistakes on ballots or spoiled ballots.



While many counties in Utah have implemented measures to combat language barriers, more must be done. While designated Section 203 counties are obliged to provide language assistance, all counties should provide adequate and robust language access within their jurisdiction. The recommendations in this paper provide a meaningful guide, and we urge counties to follow them in all elections.

Adopting these recommendations will lead to meaningful change as more LEP voters will be encouraged to vote and have the confidence to do so without encountering language barriers. Increased participation by LEP voters is a goal worth working toward for Utah. Utah's LEP population represents one element of the diversity in the state. Encouraging LEP voters will allow this diversity to be reflected within Utah's political system and ensure that LEP individuals are not left out.

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ENDNOTES

i. Although there are deadlines for online and mail registration, Utah does allow in-person Election Day registration.

ii. The datasets used in this report use the terms "American Indian", "Native American", and "Alaskan Native" but at the ACLU of Utah we prefer the term "Indigenous". Many federal laws, policies, and treaties still utilize the term "Indian" although the term can sometimes be used and applied derogatorily. It is crucial to specify that people can have intersecting identities not accounted for in the data. Many Latinx individuals hold Indigenous ancestry and it is crucial to understand how borders have been prescribed to understand this identity.

iii. It is necessary to consider that the Indigenous population is historically undercounted in the U.S. Census and the actual population count for Indigenous and LEP individuals in Utah is likely higher than the numbers provided.

iv. There are some limits on who may assist a voter, as the voter's employer, agent of their employer, or an officer or agent of the voter's union are all not permitted to do so.

v. The information listed for San Juan County was reported to us by our staff who are actively working with the County on the 2018 settlement agreement and not through email correspondence.

vi. Neither Washington County nor Cache County provided responses to our email.

vii. Although San Juan County's total population of individuals who are LEP is less than that of other counties on this list, over 12% of their population is LEP.

viii. The Office of Health Equity's [Utah Language Data Report](#) is a great starting guide for counties to locate language data.

ACKNOWLEDGMENTS

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We'd like to thank the following for their contributions to this project:

- John Mejia
- Brittney Nystrom
- Malyssa Egge
- Ciriac I. Alvarez Valle
- Liliana Bolanos
- Thaiss Del Rio
- Marifer Rivera

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